THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No: 27039 of 2005

Dt.20-12-2005

Between:

N. Salaiah S/o Bikshamaiah, aged about 56 years,
Occ: ADC E.69763, APSRTC,
Miriyalaguda Bus Depot, Nalgonda District.

...PETITIONER

AND

1. The Regional Manager, APSRTC,
Nalgonda Region, Nalgonda District and another.

...RESPONDENTS

ORDER: -

The petitioner was employed as a Conductor in the Andhra Pradesh State Road Transport Corporation in the year 1977. Subsequently, he has been promoted as Assistant Depot clerk and was posted in Kodada Bus Depot.

2. The second respondent initiated disciplinary proceedings against the petitioner by issuing charge sheet dated 15-09-2000 alleging certain acts of misconduct. The petitioner submitted his explanation on
24-09-2000. An enquiry officer was appointed and he submitted his report. On the

basis of the findings recorded by the enquiry officer, the second respondent passed final order dated 04-10-2000 imposing the punishment of withholding of one increment with cumulative effect against the petitioner. The appeal preferred by the petitioner did not yield any results. Hence, this writ petition.

3. Learned Counsel for the petitioner submits that the impugned order dated 04-10-2000 cannot be sustained on account of the fact that the second respondent imposed a major penalty without issuing a show cause notice after submission of the report by the enquiry officer. He placed reliance upon a judgment of this Court in **K. JAYACHANDRA REDDY v. DM, APSRTC, KADIRI DEPOT, ANANTAPUR.**

4. Learned Standing Counsel, on the other hand submits that once the departmental enquiry was conducted the petitioner cannot have any valid objection for the impugned order.

5. The short question in this writ petition is as to whether the impugned order suffers from any procedural irregularity. This Court cannot substitute its opinion on the findings recorded by the enquiry officer or the view taken by the disciplinary authority. The Supreme Court held in several cases that the stoppage of increments with cumulative effect amounts to imposition of major penalty. Axiomatically, the procedure prescribed for imposition of major penalties is to be followed in such cases.

6. In the instant case, the second respondent conducted a departmental enquiry. To that extent the procedure agrees with law. However, on receiving the report of the enquiry officer, the second respondent did not issue further notice to the petitioner. Hence, there exists serious infirmity in the procedure adopted by the second respondent.

7. In the ordinary course of things, the impugned order deserves to be set aside, and the matters needs to be remanded. However, having regard to the fact that nearly five years have elapsed, this Court does not find it proper, to subject the petitioner to

another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.

8. The writ petition is allowed to the extent indicated above.

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JUSTICE L. NARASIMHA REDDY

Dt.20-12-2005

GLV